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SUBJECT: AZERBAIJAN: 2009-2010 INCSR PART 2, MONEY LAUNDERING AND
FINANCIAL CRIMES

I. Summary

Embassy Baku submits the following short responses for the money laundering and financial crimes section of the 2009-2010 International Narcotics Control Strategy Report (INCSR).

GENERAL QUESTIONS

IS THE JURISDICTION CONSIDERED AN IMPORTANT REGIONAL FINANCIAL CENTER? WHAT IS ITS SIGNIFICANCE IN TERMS OF MONEY LAUNDERING?
At the crossroads of Europe and Central Asia and with vast amounts of natural resources, Azerbaijan is a rapidly growing economy. The strong economic growth is fueled by oil and natural gas resources. International trade increased since independence, as had foreign investment. Much of the international trade and foreign investments took place in the energy sector. All other sectors lag energy in growth and sophistication, to include the financial sector. As a result, Azerbaijan is not an important financial center in global terms, nor a major location where foreign entities look to conduct money laundering/terrorist financing transactions. Azerbaijan, however, is not without such transactions and Azerbaijani authorities believe that money laundering and terrorist financing operates largely through the banking sector.

TO THE EXTENT IT IS KNOWN, IS MONEY LAUNDERING/TERRORIST FINANCING PRIMARILY RELATED TO PROCEEDS FROM NARCOTICS, PSYCHOTROPIC SUBSTANCES AND CHEMICAL PRECURSORS. IF NOT, WHAT IS/ARE THE MAJOR SOURCES OF THE PROCEEDS? TO WHAT EXTENT KNOWN, DO THE CRIMINAL PROCEEDS LAUNDERED IN THE JURISDICTION DERIVE PRIMARILY FROM DOMESTIC OR FOREIGN CRIMINAL ACTIVITY? ARE THE MONEY LAUNDERING PROCEEDS CONTROLLED BY DRUG-TRAFFICKING ORGANIZATIONS, ORGANIZED CRIME, OR TERRORIST GROUPS OPERATING LOCALLY? WHAT IS THE EXTENT THAT PUBLIC CORRUPTION CONTRIBUTED TO MONEY LAUNDERING/TERRORIST FINANCING IN THE HOST COUNTRY?

The major source of criminal proceeds in Azerbaijan is from the white collar crime of public corruption. As with many other similar rapidly developing economies around the globe, corruption is endemic. As a result, the majority of money laundering is related to this activity and Embassy has little insight into it, but rather antidotal evidence. This corruption occurs in all sectors and at all levels, but stems from huge oil and gas revenues. It is unlikely that these proceeds would ever be used for funding terrorism or other criminal offenses, but rather used to increase personal wealth.

There are several other sources of criminal proceeds. As a transit country for the Afghan drug trade, Azerbaijani authorities suspect that the illicit drug trade also generates a significant amount of illicit funds. Other generators of illicit funds include robbery, tax evasion, smuggling, trafficking, and organized crime.

IS THERE A BLACK MARKET FOR SMUGGLED GOODS IN THE COUNTRY? IF SO,

IS THERE EVIDENCE TO SUGGEST THAT IT IS SIGNIFICANTLY FUNDED BY NARCOTIC PROCEEDS OR OTHER ILLICIT PROCEEDS? DOES CONTRABAND SMUGGLED GENERATE FUNDS THAT ARE LAUNDERED THROUGH THE FINANCIAL SYSTEM?

There is a significant black market for smuggled goods in Azerbaijan, and Azerbaijan serves as a transit country for illicit goods. As previously mentioned, Azerbaijan is located on the Afghanistan drug transit route; drugs are regularly smuggled into and out of Azerbaijan. Additionally, according to recent data, the amount of drug users in Azerbaijan increased in the last years. Azerbaijani authorities believe that illicit funds generated through the transit of narcotics and sales of drugs may be laundered through the financial system.

DOES MONEY LAUNDERING/TERRORIST FINANCING OCCUR IN THE FORMAL FINANCIAL CENTER, WITHIN AN OFFSHORE FINANCIAL CENTER OR FREE TRADE ZONE OR NON-BANK FINANCIAL SYSTEM OR VIA ALTERNATIVE REMITTANCE SYSTEMS?

Money laundering likely occurs in the formal financial sector, non-bank financial systems, and alternative remittance systems.

DO THE JURISDICTION'S FINANCIAL INSTITUTIONS ENGAGE IN CURRENCY TRANSACTIONS INVOLVING INTERNATIONAL NARCOTICS TRAFFICKING PROCEEDS THAT INCLUDE SIGNIFICANT AMOUNT OF US CURRENCY OR CURRENCY DERIVED FROM ILLEGAL DRUG SALES IN THE US OR THAT OTHERWISE SIGNIFICANTLY AFFECT THE US?

To the post's knowledge, Azerbaijan's financial institutions do not engage in currency transactions involving international narcotics trafficking proceeds that include significant amounts of U.S. currency or currency derived from illegal drug sales in the United States or that otherwise significantly affect the United States. Because Azerbaijan is located on the Afghanistan opiate trade route, most of the opiate trade transits Azerbaijan and ends up in Europe.

As a result, it has a negligible direct impact on the US.

IS THERE ANY INDICATION THAT TRADE-BASED MONEY-LAUNDERING OCCURS IN THE POSTS JURISDICTION?

Post assesses that the corruption level is high in Azerbaijan. Trade-based money-laundering likely occurs frequently within many of the economic sectors, for example construction and infrastructure development.

OFFSHORE FINANCIAL CENTERS

IS THE COUNTRY CONSIDERED AN OFFSHORE FINANCIAL CENTER?

Azerbaijan is not considered an offshore financial center.

ARE THERE OFFSHORE BANKS, INTERNATIONAL BUSINESS COMPANIES OR OTHER FORMS OF EXEMPT OR SHELL COMPANIES OR TRUSTS PERMITTED? IF SO, HOW DO OFFSHORE REGULATIONS DIFFER FROM ONSHORE?

N/A. Azerbaijan is not an offshore financial center.

PLEASE PROVIDE THE NUMBER OF OFFSHORE CASINOS OR INTERNET GAMING SITES. DOES THE JURISDICTION LICENSE AND REGULATE THESE SITES?

N/A. Azerbaijan is not an offshore financial center.

In addition, gambling is illegal in Azerbaijan. As such, there are no licensed casinos or internet gaming sites permitted in Azerbaijan.

IS THERE A SEPARATE REGULATORY AGENCY FOR THE OFFSHORE SECTOR, OR IS THE OFFSHORE FINANCIAL SECTOR REGULATED BY AN ONSHORE REGULATOR?

N/A. Azerbaijan is not an offshore financial center, and as such, does not regulate offshore businesses.

FREE TRADE ZONES

ARE THERE FREE TRADE ZONES IN THE JURISDICTION?

There are no free trade zones in Azerbaijan.

IS THERE ANY INDICATION THAT THESE FTZS ARE BEING USED IN TRADE-BASED MONEY LAUNDERING SCHEMES OR BY THE FINANCIERS OF TERRORISM?

N/A - There are no free trade zones in Azerbaijan.

WHAT TYPES OF SUPERVISORY PROGRAMS AND/OR DUE DILIGENCE PROCEDURES ARE IN PLACE TO MONITOR ACTIVITIES IN THE FTZ? ARE THERE IDENTIFICATION REQUIREMENTS FOR COMPANIES AND INDIVIDUALS WHO USE

THE ZONE?

N/A - There are no free trade zones in Azerbaijan.

LEGAL FOUNDATION OF AML REGIME

WHAT LAWS AND REGULATIONS EXIST IN RELATION TO AML/CTF?

With regards to Anti-Money Laundering/Counter-Terrorist Financing (AML/CTF), the Government of Azerbaijan (GOAJ) has two laws. In February 2009, the long-awaited law on "Preventing Legalization of Money and Property Obtained in Criminal Ways and Financing of Terrorism" was passed. In 2002, the GOAJ passed "Legalization of money proceeds or other property obtained through criminal acts", which is the criminal law on money laundering.

In an effort to strengthen the code, the GOAJ recently drafted new changes and amendments to the AML/CTF laws, hoping that Parliament would pass them by end of December 2009. GOAJ provided Post a draft copy of the amendments and asked for USG comments. Post forwarded the changes to DOJ and are awaiting DOJ's comments. It is view of post that the amendments will address many key USG concerns.

IS MONEY LAUNDERING A CRIMINAL OFFENSE IN THIS JURISDICTION?

Money laundering is a criminal offense in the jurisdiction.

DOES THE LAW APPLY ONLY TO DRUG RELATED MONEY LAUNDERING?

The law on "Preventing Legalization of Money and Property Obtained in Criminal Ways and Financing of Terrorism" defines criminally obtained funds as funds of every kind, property, whether movable or immovable, corporeal or incorporeal, tangible or intangible, legal documents evidencing the title to such property, obtained directly or indirectly through the commission of a criminal offense. As such, the law is wide in scope, and applies to a many methods of obtaining criminally obtained funds, not only drug related.

DOES THE JURISDICTION LIST SPECIFIC CRIMES AS PREDICATE OFFENCES OR TAKE AN "ALL SERIOUS CRIMES" APPROACH? IN SOME JURISDICTIONS, ANTI-MONEY LAUNDERING LAWS ARE APPLICABLE TO PREDICATE OFFENSES DEFINED AS "ALL SERIOUS CRIMES", CRIMES THAT CARRY A THRESHOLD MINIMUM SENTENCE IN THE PENAL CODE. WHAT IS THAT THRESHOLD? IF THE COUNTRY HAS A LIST APPROACH, WHAT OFFENSES ARE COVERED?

The Financial Monitoring Organ (FMO) collects specific information

on all suspicious transactions that include:

- Any transaction of 20,000 AZN or greater
- Situations that cause suspicions or reasonable grounds for suspicions that the funds or other property are the proceeds of criminal activity or are related to terrorist financing
- Any transaction with the funds or other property associated with a the citizens of a particular country, which the GOAJ deems suspicious
- Any transactions from bank accounts of politically exposed persons of a foreign country
- Transfer of funds from anonymous accounts that are out of the jurisdiction of GOAJ, as well as transfer of funds to anonymous accounts outside the GOAJ
- The list of countries that are suspected in either legalization of criminally obtained funds or other property, financing of terrorism, support of dangerous trends of organized crime, armed separatism, extremism, mercenary, participation in illegal narcotic drug dealing and narcotic production

Once the information is collected, the FMO analyzes the information submitted. When the FMO determines that the executed transaction is related to the legalization of criminally obtained funds or other property and the financing of terrorism, the information on the legalization of criminally obtained funds would be submitted to the General Prosecutor's Office for review.

After review by the Prosecutor's office, if the Prosecutor General finds that a specific transaction was full or partial, direct or indirect reference of money resources or other property for commitment of terrorism or accumulation of money resources or other property in the same purposes the individual would be punished by imprisonment for the term from eight up to twelve years with confiscation of property.

In addition, should the Prosecutor General find that an individual was attempting to legalize money resources or other property,

acquired from illegal circulation of narcotics or psychotropic substances, the individual may be punished by the penalty at a rate from two up to five thousand of nominal financial unit, or corrective works for the term up to two years, or imprisonment for the term up to four years. If the same act is committed repeatedly, the individual could be imprisoned for a term from four to eight years with confiscation of property. If such transactions were found to be organized by a group, they would be punishable from seven to twelve years with or without confiscation of property.

As previously discussed, the GOAJ has begun the process to amend many of its statutes related to AML/CTF. In the amendments, the GOAJ is proposing changes to many of the statutes related to these issues including the minimum sentence.

HAS THE COUNTRY ENACTED SECRECY LAWS THAT PREVENT DISCLOSURE OF CLIENT AND OWNERSHIP INFORMATION BY DOMESTIC AND OFFSHORE FINANCIAL SERVICES COMPANIES TO BANK SUPERVISORS AND LAW ENFORCEMENT AUTHORITIES?

Article 16 of the law on "Preventing Legalization of Money and Property Obtained in Criminal Ways and Financing of Terrorism" stipulates that banking or other legally protected secrecy regimes would be required to provide the appropriate documentations to the authorities despite their status.

With regards to this law, Azerbaijan does not have secrecy laws that prevent the disclosure of client and ownership information to bank supervisors and law enforcement authorities.

FINANCIAL SECTOR

ARE BEARER SHARES PERMITTED FOR BANKS AND OR COMPANIES?

Bearer shares are not permitted for banks and companies.

WHICH ENTITIES SUPERVISE AND EXAMINE FINANCIAL INSTITUTIONS FOR COMPLIANCE WITH AML/CTF REGULATIONS?

The February 2009 AML/CTF law applies to:

- Credit Institutions
- Insurers, reinsurers, insurance intermediaries
- Brokers
- Credit institutions and other organizations that transfer funds
- Pawnshops
- Investment vehicles
- Legal persons engaged in buying or selling of precious stones, precious metals, as well as jewelry or other goods made of precious stones and precious metals
- Non-governmental organizations or religious organizations parts of activities of which consist of receiving, collecting, delivering or transferring the funds
- Lottery organizers
- Legal persons providing intermediary services on the buying and selling of real estate

The supervision authorities are the following:

- Central Bank of Azerbaijan for credit institutions and the ones providing leasing services
- A relevant executive authority carrying out supervision over the securities markets - for brokers, who are professional participants of the securities market, those who professionally operate in the management of securities, lottery organizers and investment funds
- A relevant executive authority - for insurers, reinsurers and insurance intermediaries, legal persons engaged in buying and selling of precious stones, precious metals, as well as jewelry or other goods made of precious stones or precious metals
- A relevant authority that supervises over the institutions providing post services - for the relevant post services
- The relevant executive authorities- for the non-governmental or religious organizations
- The relevant executive authorities- for the notaries and other persons providing legal services
- The bar of lawyers within the framework of competence- for lawyers
- The Chamber of Auditors within the framework of competence - for the persons providing audit services
- If a supervision authority is not envisaged for any monitoring entity and other persons involved in monitoring, the supervision over the compliance with the requirements should be carried out by the Financial Monitoring Organ (FMO).

As a result, it is the Central Bank that is responsible for monitoring financial institutions. After the February 2009 law passed, the GOAJ decided that the Financial Monitoring Organ (FMO) would be located within the Central Bank. After several months of working on budget issues, amendments and an action plan, the Central Bank appointed the Director of the FMO, Adishirin Gasimov and the Deputy Head of the FIU, Anar Salmanov.

In addition, the GOAJ decided on the budget for the unit and staffing. Within the budget, the GOAJ allocated that the staffing of the FMO would consist of 37 staff members, accounting for 15% of the Central Bank. With regards to financial resources, the GOAJ allocated 5 million AZN to the FMO in the 2010 budget. Of which, 1 million AZN was allocated to the creation of an IT system.

WHAT IS THEIR CAPACITY TO CONDUCT COMPLIANCE INVESTIGATIONS (ARE THEY ADEQUATELY STAFFED AND TRAINED)?

Because the law was so recently passed, the FMO only began to operate in 2009. As a result, it is difficult to evaluate the FMO's capacity to conduct compliance investigations. With that said, on 21 October 2009, Azerbaijani President Ilham Aliyev approved a Decree that provided an action plan on improvement of the AML/CTF procedures. During July 2009, the USG conducted trainings for the Prosecutor General's office. Within the action plan, the GOAJ highlighted the need to conduct trainings and seminars for supervision authorities. In addition, according to the Action Plan, as of December 2009, the FMO planned to be fully staffed.

ARE BANKS AND OTHER FINANCIAL INSTITUTIONS REQUIRED TO KNOW, RECORD, AND REPORT THE IDENTITIY OF CUSTOMERS ENGAGING IN SIGNIFICANT TRANSACTIONS, INCLUDING THE RECORDING OF LARGE CURRENCY TRANSACTIONS AT THRESHOLDS APPROPRIATE TO THE COUNTRY'S ECONOMIC SITUATION? WHAT IS THE STATUTORY THRESHOLD?

The law on "Preventing Legalization of Money and Property Obtained in Criminal Ways and Financing of Terrorism" detailed the know your client requirements. All banks and other financial institutions shall identify their customers and beneficial owners when:

- Before establishing business relations
- Before carrying out occasional transactions above the 20,000 AZN threshold
- Before carrying out wire transfers

The 20,000 AZN requirements is a decent threshold for the country. However, because this relates to all transactions, not just cash transactions, post's only concern is that this might become cumbersome for the GOAJ and banks to keep track of and fulfill the requirement. The law is too new to comment on its effectiveness related to implementation.

ARE BANKS AND OTHER FINANCIAL INSITUTIONS REQUIRED TO MAINTAIN FOR AN ADEQUATE TIME RECORDS NECESSARY TO RECONSTRUCT SIGNIFICANT TRANSACTIONS THROUGH FINANCIAL INSITUTIONS IN ORDER TO BE ABLE TO RESPOND QUICKLY TO INFORMATION REQUESTS FROM APPORPRIATE GOVERNMENT AUTHORITIES IN NARCOTICS RELATED OR OTHER MONEY LAUNDERING OR TERRORIST FINANCE CASES? FOR HOW LONG?

Banks and other financial institutions are required to maintain for

an adequate time records necessary to reconstruct significant transactions through financial institutions in order to be able to respond quickly to information requests from appropriate government authorities in narcotics related and other money laundering or terrorist finance cases. The identification documents of a customer, beneficial owner or authorized representative must be kept for 5 years after the customer's account is closed or termination of legal relations with the customer. Documents on specific transactions (i.e. account files, business correspondence, and other relevant documents) must be kept for at least 5 years following the completion of the transaction.

Although this law is in place, the education process has just begun.

Because of this, the FMO recognizes that part of their job in the upcoming time period is to educate the banks and other financial institutions on proper bank recording. The FMO requested technical assistance from the USG, which included a request for assistance in educating the interested parties.

DO FINANCIAL INSITUTIONS REPORT SUSPICIOUS TRANSACTIONS? WHICH

ONES? IS SUCH REPORTING MANDATORY OR VOLUNTARY? IS REPORTING REQUIRED FOR ALL SUSPICIOUS TRANSACTIONS, OR IS THERE A THRESHOLD AMOUNT BELOW WHICH SUSPICIOUS TRANSACTION REPORTS ARE NOT REQUIRED? According to the February 2009 law, all financial institutions are required by law to report suspicious transactions. Reporting is mandatory. There is no occasion that a suspicious transaction does not need to be reported.

The Financial Monitoring Organ (FMO) collects specific information on all suspicious transactions that include:

- Any transaction of 20,000 AZN or greater
- Situations that cause suspicions or reasonable grounds for suspicions that the funds or other property are the proceeds of criminal activity or are related to terrorist financing
- Any transaction with the funds or other property associated with a the citizens of a particular country, which the GOAJ deems suspicious
- Any transactions from bank accounts of politically exposed persons of a foreign country
- Transfer of funds from anonymous accounts that are out of the jurisdiction of GOAJ, as well as transfer of funds to anonymous accounts outside the GOAJ
- The list of countries that are suspected in either legalization of criminally obtained funds or other property, financing of terrorism, support of dangerous trends of organized crime, armed separatism, extremism, mercenary, participation in illegal narcotic drug dealing and narcotic production.

ARE REPORTING INDIVIDUALS PROTECTED BY LAW WITH RESPECT TO THEIR COOPERATION WITH LAW ENFORCEMENT ENTITIES?

Reporting individuals are protected by law in respect to their cooperation with law enforcement.

INFORMAL FINANCIAL SECTOR AND NONFINANCIAL BUSINESSES AND PROFESSIONS

ARE THE AML/CTF CONTROLS AS DESCRIBED IN THE PRECEDING QUESTIONS APPLIED TO NON-BANK FINANCIAL INSTITUTIONS AND DESIGNATED NON-FINANCIAL BUSINESSES AND PROFESSIONS? WHICH ARE SUBJECT TO THE REQUIREMENTS TO REPORT SUSPICIOUS TRANSACTIONS AND/OR LARGE TRANSACTIONS? WHICH ENTITIES HAVE ACTUALLY FILLED SUCH REPORTS? WHICH AUTHORITY SUPERVISES SUCH ENTITIES FOR COMPLAINTS?

The AML/CTF controls as described in the preceding questions are also applied to non-bank financial institutions (NBFIs) and designated non-financial businesses and professions (DNFBPs), such as exchange houses, stock brokerages, cash couriers, dealers in jewels and precious metals, insurance companies, pawn shops, realtors, high-worth dealers in art and to intermediaries, such as accountants, notaries, and brokers. The AML/CTF law is fairly wide sweeping and the only two areas that post identifies as areas that are missed are car dealers and lawyers. They are all (except car dealers/lawyers) required to report suspicious transactions and large transactions. To date, no entities have actually filed reports because the law has just begun the implementation process. The FMO is the governmental body which all businesses must report suspicious transactions. In addition, the FMO conducts the analysis to determine if a transaction may need further investigation by the Prosecutor General's office.

FINANCIAL INTELLIGENCE UNIT

DO CURRENT LAWS PROVIDE FOR THE ESTABLISHMENT AND FUNDING OF A FINANCIAL INTELLIGENCE UNIT?

The February 2009 law provided for the establishment and funding of the Financial Monitoring Organ (FMO). As previously mentioned the

budget for 2010 for the FIU was 5 million AZN.

HAS THE COUNTRY ESTABLISHED AN FIU? IS IT OPERATIONAL? IS IT ADEQUATELY STAFFED? TO WHAT DEGREE DOES IT HAVE OPERATIONAL AND BUDGETARY INDEPENDENCE? WHERE IN THE GOVERNMENT IS IT HOUSED? The GOAJ has established an FMO which has been operational since circa October 2009. The plan is to staff the FMO with approximately 37 staff members. When fully staffed, post believes that the FMO will be adequately staffed. The FMO has adequate operational and budgetary independence. It is housed within the Central Bank of Azerbaijan.

DESCRIBE THE AUTHORITIES AND FUNCTIONS OF THE FIU. IS IT AN

ADMINISTRATIVE BODY THAT PERFORMS ANALYTICAL DUTIES? DOES IT HAVE CRIMINAL INVESTIGATIVE AND/OR REGULATORY RESPONSIBILITIES?

The FIU is an administrative body that performs analytical duties. It does not have criminal investigative or regulatory responsibilities. The GOAJ has given the prosecutor general's office the responsibility to investigate financial crimes.

DOES THE FIU HAVE ACCESS TO RECORDS OR DATABASES OF OTHER GOVERNMENT ENTITIES OR FINANCIAL INSTITUTIONS? DOES IT HAVE FORMAL MECHANISMS IN PLACE TO SHARE INFORMATION DOMESTICALLY OR INTERNATIONALLY WITH OTHER FIUS?

The FMO has access to the records and databases of other government entities and financial institutions. It has formal mechanisms in place to share information domestically (with law enforcement/prosecutors) and internationally with other FMOs.

HOW MANY SUSPICIOUS TRANSACTION REPORTS WERE RECEIVED IN 2009? HOW MANY WERE THE SUBJECT OF INVESTIGATION OR RESULTED IN REFERRALS TO LAW ENFORCEMENT FOR INVESTIGATION?

Because the law was passed in Feb 2009, and it took several months to get the FMO established, to date no suspicious transactions reports were received in 2009. The FMO is still in the process of educating the banks, prosecutors, etc on the law.

WHICH GOVERNMENT BODIES ARE RESPONSIBLE FOR INVESTIGATING FINANCIAL CRIMES, INCLUDING MONEY LAUNDERING AND TERRORIST FINANCING? ARE THEY ADEQUATELY STAFFED AND TRAINED?

The Prosecutor General's Office is responsible for investigating financial crimes, including money laundering and terrorist financing. They are adequately staffed and trained. The USG provided training this year to the Prosecutor General's office regarding AML/CTF investigations.

ASSET FORFEITURE AND SEIZURE LEGISLATION

HAVE THERE BEEN ARRESTS, PROSECUTIONS, AND CONVICTIONS FOR MONEY LAUNDERING OR TERRORIST FINANCING SINCE JAN 1 2009? HOW MANY? PLEASE PROVIDE DETAILS.

One person has been arrested for money laundering since January 1, 2009. This individual was a high ranking government official accused of embezzling and laundering \$100,000. The case is currently being investigated.

HAS THE COUNTRY ENACTED LAWS AND ESTABLISHED SYSTEMS FOR IDENTIFYING, TRACING, FREEZING, SEIZING, AND FORFEITING NARCOTICS RELATED ASSETS AS WELL AS OTHER ASSETS DERIVED FROM, OR INTENDED FOR, TERRORIST FINANCING AND OTHER SERIOUS CRIMES?

GOAJ has enacted laws and established systems for identifying, tracing, freezing, seizing, and forfeiting narcotics-related assets as well as assets derived from, or intended for, terrorist financing and other serious crimes. The authority is judicial. New legislation was introduced in October 2009.

WHAT ARE THE OBSTACLES OR DISINCENTIVES TO ENACTING SUCH LAWS, REGULATIONS, AND OTHER AUTHORITIES?

None - The laws were enacted this year.

WHAT ARE THE MAJOR PROVISIONS IN CURRENT AND OR PROPOSED LEGISLATION?

Any asset can be seized, including instruments of crime such as conveyances used to transport narcotics, property on which illicit crops are grown, or are used to support terrorist activity, and intangible assets such as bank accounts. Substitute assets can also be seized. Legitimate businesses can be seized if used to launder drug money, support terrorist activity, or are otherwise related to other criminal proceeds.

WHAT GOVERNMENT ENTITIES ARE RESPONSIBLE FOR TRACING, SEIZING ASSETS AND FREEZING ASSETS? IS THERE A PERIOD OF TIME ASCRIBED TO THE ACTION OF FREEZING, AFTER WHICH THE ASSETS ARE RELEASED? ARE FROZEN ASSETS CONFISCATED? IF YES, BY WHAT GOVERNMENT ENTITY? IS THERE AN ASSET FORFEITURE FUND? WHAT ENTITY RECEIVES PROCEEDS FROM ASSET SEIZURES AND FORFEITURES? WHICH AGENCIES MANAGE AND HAVE

RESPONSIBILITY FOR SEIZED ASSETS? WHAT IS THEIR CAPACITY TO MANAGE SEIZED ASSETS?

The Prosecutor General's Office is responsible for tracing, seizing assets and freezing assets. There is a period of time ascribed to

the action of freezing, after which the assets are released. There is not an asset forfeiture fund. The Prosecutor General's Office manages and has responsibility for seized assets. Their capacity to managed seized assets is adequate.

DOES THE BANKING COMMUNITY COOPERATE WITH ENFORCEMENT EFFORTS TO TRACE FUNDS AND SEIZE/FREEZE BANK ACCOUNTS?

It is still too early to comment on the success or failure of the implementation of the AML/CTF laws.

DOES THE GOVERNMENT ENFORCE EXISTING ASSET SEIZURE AND FORFEITURE LAWS? DOES THE JURISDICTION HAVE ADEQUATE POLICE POWERS AND RESOURCES TO TRACE, SEIZE AND FREEZE ASSETS? IF SO, CAN THE JURISDICTION FREEZE ASSETS WITHOUT UNDUE DELAY?

The government enforces existing asset seizure and forfeiture laws, though some would argue that prosecution is selective, inconsistent and influenced by politics. The jurisdiction has adequate police powers and resources to trace, seize and freeze assets. The jurisdiction can freeze assets without undue delay.

DOES THE GOVERNMENT HAVE AN INDEPENDENT NATIONAL SYSTEM AND MECHANISM FOR FREEZING TERRORIST ASSETS?

The government does not have an independent national system and mechanism for freezing terrorist assets.

WHAT WAS THE DOLLAR AMOUNT OF NARCOTICS RELATED OR TERRORIST RELATED AND OTHER CRIMINAL RELATED ASSETS FROZEN, SEIZED AND/OR FORFEITED IN THE PST YEAR? HOW DOES THIS AMOUNT COMPARE TO AMOUNTS SEIZED/FORFEITED/FROZEN IN THE PREVIOUS YEARS?

The AML/CTF procedures were just established in 2009. As such, the amount increased since 2008. In 2009, \$100,000 was frozen, compared to 2008 when no assets were frozen.

HAS THE COUNTRY ENACTED LAWS FOR THE SHARING OF SEIZED ASSETS WITH OTHER GOVERNMENTS? IS THE GOVERNMENT ENGAGED IN BILATERAL OR MULTILATERAL NEGOTIATIONS WITH OTHER GOVERNMENTS TO ENHANCE ASSET TRACING, FREEZING AND SEIZURE?

The country does not have laws for the sharing of seized assets with other governments. At this time, the government is actively engaged in bilateral and multilateral negotiations with other governments to enhance asset tracing, freezing and seizure.

TERRORIST FINANCING

HAS THE JURISDICTION CRIMINALIZED THE FINANCING OF TERRORISM AS REQUIRED BY THE UNITED NATIONS COUNCIL RESOLUTION 1373?

Yes, money laundering is a crime and has been since an addition to the criminal code in 2002. Pursuant to the draft amendments to the law, financing of terrorism would also be added to the law.

HAS THE JURISDICTION CIRCULATED TO ITS FINANCIAL INSTITUTIONS THE LIST OF INDIVIDUALS AND ENTITIES THAT HAVE BEEN INCLUDED ON THE UN 1267 SANCTION'S COMMITTEE'S CONSOLIDATED LIST AS BEING LINKED TO BIN LADEN, MEMBERS OF AL QA'IDA OR THE TALIBAN? DOES THE JURISDICTION CIRCULATE THE LIST OF TERRORIST ORGANIZATIONS/FINANCIERS THAT THE USG OR THE EUROPEAN UNION HAVE DESIGNATED UNDER RELEVANT AUTHORITIES? DID THE JURISDICTION IDENTIFY, FREEZE, SEIZE AND/OR FORFEIT RELATED ASSETS IN 2009?

Azerbaijan has circulated to its financial institutions the list of individuals and entities that have been included on the UN 1267 sanctions committee's consolidation list as being linked to Usama bin Ladin, members of the Al Qa'ida organization and Taliban. Azerbaijan circulates a list of terrorist organizations/financiers that the USG and the European Union have designated under relevant authorities. Azerbaijan did not identify, freeze, seize, or forfeit related assets in 2009.

DOES THE JURISDICTION ACKNOWLEDGE THE EXISTENCE AND USE OF VALUE TRANSFER SYSTEMS OUTSIDE THE FORMAL FINANCIAL SYSTEM? DESCRIBE STEPS TAKEN REGARDING REGULATING ALTERNATIVE REMITTANCE SYSTEMS?

Azerbaijan acknowledges the existence and use of value transfer systems outside of the formal financial system. As a result, the law that was enacted in 2009, effect all transactions whether in or outside the formal financial system (for example, sales of jewelry).

DISCUSS THE EFFORTS THE JURISDICTION HAS TAKEN TO THWART THE MISUSE OF CHARITABLE AND OR NON-PROFIT ENTITIES THAT CAN BE USED AS

CONDUITS FOR THE FINANCING OF TERRORISM.

Azerbaijan acknowledges the existence and misuse of charitable and or non-profit entities that could be used as conduits for the

financing of terrorism. As a result, the GOAJ enacted the February 2009 law which effects all transactions, including those conducted by religious or non-governmental organizations.

CROSS BORDER TRANSPORTATION OF CURRENCY AND NEGOTIABLE INSTRUMENTS

ARE THERE STATUTORY REQUIREMENTS FOR LIMITING OR MONITORING THE CROSS-BORDER TRANSPORTATION OF CURRENCY AND MONETARY INSTRUMENTS?

The GOAJ has statutory requirements for limiting and monitoring the cross-border transportation of currency and monetary instruments. The currency reporting requirement for both inbound and outbound is 5,000 manat. Mandatory declaration forms are used at border crossings.

IS CASH DECLARATION OR SMUGGLING REPORTS ENTERED INTO A DATABASE?

IS SUCH DATA SHARED BETWEEN HOST GOVERNMENT AGENCIES, IN PARTICULAR WITH THE FIU?

Cash declarations or smuggling reports are not entered into a database.

INTERNATIONAL COOPERATION

HAS THE COUNTRY ADOPTED LAWS OR REGULATIONS THAT ALLOW FOR THE EXCHANGE OF RECORDS WITH THE US ON INVESTIGATIONS AND PROCEEDINGS RELATED TO NARCOTICS, MONEY-LAUNDERING, TERRORISM AND TERRORIST FINANCING? HAS THE JURISDICTION REACHED AN AGREEMENT WITH THE US AUTHORITIES ON A MECHANISM FOR EXCHANGE OF RECORDS IN CONNECTION WITH SUCH INVESTIGATIONS AND PROCEEDINGS? IF NOT, IS THE COUNTRY NEGOTIATING IN GOOD FAITH WITH THE US TO ESTABLISH AN EXCHANGE MECHANISM? DOES THE JURISDICTION HAVE SIMILAR ARRANGEMENTS WITH OTHER JURISDICTIONS?

The GOAJ has not adopted laws or regulations that allow for the exchange of records with the United States on investigations and proceedings related to narcotics, all-source money laundering, terrorism, and terrorist financing on a bilateral basis. Azerbaijan has not reached an agreement with the United States authorities on a mechanism for exchange of records in connection with such investigations and proceedings. The United States, however, utilizes agreements with multi-lateral organizations for the exchange of records. The GOAJ has expressed its interest in creating a bilateral relationship; however the USG has not begun negotiations. With that said, if the USG began negotiations, it is likely that the GOAJ would welcome it and negotiate in good faith.

IDENTIFY ALL TREATIES, AGREEMENTS OR OTHER MECHANISMS FOR INFORMATION EXCHANGE THAT THE HOST COUNTRY HAS ENTERED INTO WITH THE USG OR OTHER COUNTRIES, INCLUDING AGREEMENTS BETWEEN THE FIU AND IT COUNTERPARTS, AS WELL AS MEMBERSHIP IN THE EGMONT GROUP, AND THOSE WITH HOME COUNTRY SUPERVISORS TO FACILITATE THE EXCHANGE OF SUPERVISORY INFORMATION REGARDING BANKS AND TRUST COMPANIES OPERATING IN THE HOST COUNTRY. DESCRIBE THE STATUS OF EFFORTS TO UPDATE SUCH AGREEMENTS OR ARRANGEMENTS.

Azerbaijan is part of many international information exchanges that include the United Nations and MONEYVAL. Because the GOAJ recently established an FMO, the GOAJ would receive its membership in the EGMONT group. According to the October 2009 Action Plan, the GOAJ plans to become an EGMONT member by December 2010.

HAS THE COUNTRY COOPERATED, WHEN REQUESTED, WITH APPROPRIATE USG LAW ENFORCEMENT AGENCIES AND OTHER GOVERNMENTS INVESTIGATING FINANCIAL CRIMES?

Azerbaijan has cooperated with appropriate USG law enforcement agencies and other governments investigating financial crimes. Azerbaijan is currently investigating, along with the USG, a corrupt practice and fraud case against a U.S. business.

PLEASE DETAIL ANY INSTANCES OF REFUSALS TO COOPERATE WITH THE FOREIGN GOVERNMENTS, AS WELL AS ACTIONS TAKEN BY THE USG AND ANY INTERNATIONAL ORGANIZATION TO ADDRESS SUCH OBSTACLES.

There have been no refusals to work with foreign governments.

IS THE COUNTRY A PARTY TO THE UN INTERNATIONAL CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTICS AND DRUGS SUBSTANCES, THE UN CONVENTION AGAINST TRANSNATIONAL ORGANIZED CRIME, THE UN CONVENTION AGAINST

CORRUPTION AND THE UN INTERNATIONAL CONVENTION FOR THE SUPPRESSION OF THE FINANCING OF TERRORISM OR OTHER APPLICABLE AGREEMENTS AND CONVENTIONS? IF THE COUNTRY RATIFIED, OR ACCEDED TO THESE CONVENTIONS IN 2009, PLEASE PROVIDE THE DATE OF RATIFICATION.

Azerbaijan is party to all of the above treaties and conventions. The date of which is as follows:

- United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances: 1988
- Transnational Organized Crime; Protocol to Prevent, Suppress and Punish Trafficking in Persons, specially Women and Children,

Supplementing the United Nations Convention Against Transnational Organized Crime: 2000

- United Nations Convention against Corruption: 2003
- United Nations Convention for the Suppression of the Financing of Terrorism: 1999

DOES THE COUNTRY ADHERE TO RELEVANT INTERNATIONAL MONEY LAUNDERING STANDARDS, SUCH AS THE RECOMMENDATIONS OF THE FATF? IF SO, WHAT STEPS IS IT TAKING TO IMPLEMENT THE STANDARDS? IS IT A MEMBER OF THE FATF-STYLE BODY? IF NOT, WHAT STEPS IS IT TAKING TO BECOME A MEMBER OF A BODY OR TO IMPLEMENT AML/CTF MEASURES?

Because the new AML/CTF law was passed in February 2009, FATF has not been able to comment on the law. Previously, FATF and MONEYVAL criticized Azerbaijan for not having an AML/CTF law, and the GOAJ responded to those criticisms by creating a new law. On several occasions, the GOAJ expressed concern about Azerbaijan's standing within the FATF organization. In recent months, the Embassy Baku has noted a stark change in relationship with the GOAJ on this issue, where the GOAJ closely coordinated in order to mitigate some concerns.

Evidence of the GOAJ's desire to satiate FATF's concerns, the employees of the FMO proactively provided the Embassy with changes and amendments to some of the legislation in the February 2009 law. Post forwarded the changes to DOJ and are awaiting DOJ's comments. It is view of post that the amendments will address many key USG concerns. In addition, the FMO furnished the Embassy with an Executive Order executed on October 21 that provided an action plan on improvement of the AML/CTF law. Within the action plan, the GOAJ planned to change the definition of "money laundering" to comply with US 1988 Convention against illicit traffic in Narcotic Drugs and Psychotropic Substances and the UN Convention against Transnational Organized Crime.